



PLANNING COMMISSION/ARCHITECTURAL REVIEW BOARD

MINUTES

October 27, 2008

6:30 P.M.

**CITY OF FREDERICKSBURG
715 PRINCESS ANNE STREET
SECOND FLOOR CONFERENCE ROOM**

COMMISSION MEMBERS

**Vic Ramoneda
Edward Whelan, III, Chairman
Roy McAfee, Vice Chairman
Susan Spears
Dr. Paul Ware**

CITY STAFF

**Raymond P. Ocel, Jr., Director
of Planning & Comm. Development
Kathleen Dooley, City Attorney
Erik Nelson, Senior Planner**

ARB MEMBERS

**Vernon Danielsen
Lisa Peverill
Barry Waldman
Robin Wood, Vice Chairman
Donna Chasen
Kennard Johnson, Jr.**

CALL TO ORDER

The October 27, 2008 joint Planning Commission and Architectural Review Board worksession was called to order at 6:30 p.m. by Chairman Whelan and Vice Chairman Wood.

BUSINESS MEETING

Mr. Ocel proceeded to describe the topic of the meeting and the City Council's desire for input on the issue of expanding standing for ARB appeals. A Council resolution dated August 12, 2008 was distributed to the two Boards, which explained the Council's request.

Mr. Ocel addressed the current appeals process provided in Sec. 78-767 of the Zoning Ordinance and suggested several methods which would expand the appeals process. One option included permitting any City resident to make an appeal, under certain conditions, and the two Boards began to discuss this proposal. In response to a question, staff noted

that the two Boards could recommend no change, but should also note a way to expand standing, as requested by Council.

Mr. Danielsen questioned whether this process was in the search for a problem to offer rather than a solution?

Mr. Waldman gave a synopsis of previous Historic Preservation Task Force issues, ordinance changes and the earlier discussion on standing.

Ms. Dooley gave a synopsis for the 2004 aggrieved court case where the Circuit Court ruled that none of the appellants were deemed to having standing to bring the appeal forward. She mentioned that the Council was seeing a level of frustration by some members of the community in regard to some ARB decisions. Councils' desire is to provide for a more open government and process so they requested that staff and the two Boards develop a means to broaden the appeals process to City Council, but not to the Circuit Court. A discussion on the appeals process ensued.

Mr. Waldman noted that an aggrieved person is well defined by the law and that an unpredictable result may occur if this is changed. He noted that maybe a City Council member may bring an appeal of an ARB decision and this change was discussed. Mr. Ramoneda noted that having only one City Council member raising the issue was too low of a bar to reach and observed that this proposal substitutes a political process for a decision made by a trained Board.

Dr. Ware said that obtaining a certain amount of signatures, say 50, to make an appeal was an easy threshold to meet. He questioned what other ARB's are doing with appeals. It was noted that most use the aggrieved person although the City of Alexandria permits 25 people to make an appeal. Mr. Waldman said that it would be difficult and too time consuming to verify property or business owner if the process was to allow a certain number of property owners or business owners in the historic district to file an appeal.

Dr. Ware noted that only controversial approvals will be the cases appealed, not the day to day ones. He noted that expanding standing was opening a can of worms. Ms. Spears echoed Dr. Ware's comments and noted the appeal process could become a nightmare to administer.

Ms. Chasen noted that people looking to buy property in the historic district or start a business may see this as a disincentive to locate downtown. This part of the process should be seriously taken into account when considering downtown development.


Dr. Ware further noted that the ARB is dealing with one set of issues while preservationists are dealing with another. (Federal and State regulations versus local ordinances). He noted that this changes the nature of the appeal and shifts the focus away from the local level. He noted that appealing cases is a well known tactic to delay projects and was in agreement with Ms. Chasen.

Mr. Waldman noted that public participation at ARB meetings is encouraged but actual participation by preservationists is very limited. There is no agreement on what to do to open the process and the aggrieved person is the best standard and suggested that it continue to be used. Anything else interjects politics into a technical process.

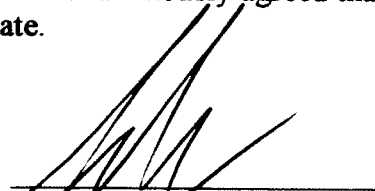
Ms. Dooley summarized the different options discussed and noted them on the white board in the meeting room. Those notations are attached to the minutes.

After the summation by the City Attorney, both Boards unanimously agreed that keeping the current standard of aggrieved person is appropriate.

The meeting adjourned at 9:15 pm.



Robin Wood, Vice-Chairman



Edward Whelan, Chairman

Appeal

Applicant/aggrieved person

Pay fee

Be specific

Not procedure



City Council



Circuit Court



Supreme Court

Review

Any City resident

Pay fee

Be specific

Not procedure



City Council

Final decision

Unless applicant or aggrieved person appeals



Circuit Court



Supreme Court

Resolution

Still opposed to proposal

Discourages investment

Adds delay, complexity

Injects politics instead of expertise

Public comment is existing outlet

May be hard to undo – once done

Diminishes authority of ARB

Undermines ability to find good people to serve

Loss of talent

Council – either delegate authority or keep it

Encourage public comment and involvement at ARB level

ARB can reconsider its decision

(limited by vested rights)

Public hearing = more process than required already

Current system is reasonable

Opening a “can of worms”

Unfair to taxpayers – fee does not cover cost and resources diverted from other projects

No right to be happy all the time